

**OPINION  
56-27**

September 26, 1956        (OPINION)

CITIES

RE:   Sewer Assessment Warrent - Validity

This is in reply to your letter of September 17, 1956 requesting an opinion of this office in re sewer and assessment warrants.

You inform us that the City of Mayville created a district for the purpose of extending sewer and watermains. No resolution of necessity was passed as part of the cost was not to be paid by service charges. Apparently someone is questioning the validity of said warrants on the ground that no resolution of necessity was passed.

You refer us specifically to section 40-2215 of the 1953 Supplement to the N.D.R.C. of 1943 and particularly the provision thereof (referring to the resolution of necessity) that: "Such resolution shall not be required, however, if the improvement consists of the construction or alteration of sewer or water mains, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-2216." From the information you submit, the improvement is not to be paid from service charges. From such information our only conclusion must be that the resolution of necessity is unnecessary.

LESLIE R. BURGUM

Attorney General